

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON ,

Plaintiff,

v.

KURT A. BENSHOOF,

Defendant.

CASE NO. 2:24-mc-60-JNW

ORDER


Defendant Kurt Benshoof purports to remove his Seattle Municipal Court criminal cases, Nos. 676492, 676463, 676216, 676207, 676175, 675405, 671384, 656748, 669329, to this Court under 28 U.S.C. § 1443. Dkt. No. 1.

Under narrow circumstances, a petitioner can remove a state criminal case to federal court if the petitioner “is denied or cannot enforce in the [state] courts . . . a right under any law providing for the equal rights of citizens of the United States.” 28 U.S.C. § 1443(1). The petitioner seeking removal must satisfy a two-part test: (1) the petitioner must assert “as a defense to the prosecution, rights that are given to [the petitioner] by explicit statutory enactment protecting equal racial civil rights”; and (2) the petitioner cannot enforce their rights because of “a state statute or a

1 constitutional provision that purports to command the state courts to ignore federal
2 rights.” *Washington v. Rudder*, No. CV-14-3156-LRS, 2014 WL 5427981, at *1 (E.D.
3 Wash. Oct. 23, 2014) (quoting *Patel v. Del Taco, Inc.*, 446 F.3d 996, 998–99 (9th Cir.
4 2006) (cleaned up). Benshoof satisfies neither criterion—he does not assert a
5 defense based on a statute protecting racial civil rights.

6 Accordingly, Benshoof’s proposed removal is defective and this Court does not
7 have subject matter jurisdiction over this case. The Court therefore REMANDS the
8 action to the state court and terminates all pending motions.

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10 Dated this 16th day of January, 2025.

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13 Jamal N. Whitehead
14 United States District Judge
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